

RESPONSE

Change of Address

Applicant herein files a change of correspondence address, changing the correspondence address to George C. Lewis, Greenberg Traurig, LLP, 1200 17th Street, Suite 2400, Denver, CO 80202.

Amendments to Claims

Withdrawn claims 4-15 are canceled herein. Applicants reserve the right to pursue the canceled claims in a separate divisional application at a future time.

Remarks

The following remarks are intended to fully respond to the Office Action dated November 18, 2005.

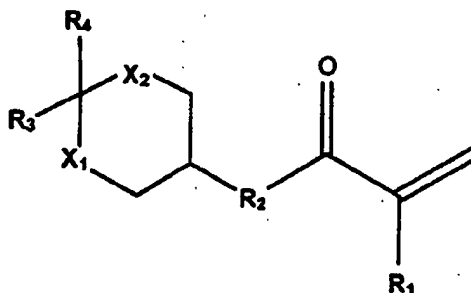
In the Office Action mailed December 7, 2005, the Examiner examined claims 1-3 and recognized that claims 4-15 were withdrawn by the Applicants in a prior election. Claims 1-3 were rejected under 35 U.S.C. 102(b) as anticipated by Zey et al. (US 4,076,727 hereinafter "Zey"). The application respectfully traverses this rejections.

Zey Does Not Anticipate Claim 1

Applicants wish to point out to the Examiner that the pending claims were drafted to specifically exclude the compounds disclosed by Zey by selection of the claimed structure and the inclusion of the provisos contained in the "wherein" clause in claim 1. The following is a brief discussion of some of the portions of claim 1 that exclude the compounds disclosed by Zey.

Claim 1 reads as follows:

1. A monomer corresponding to a compound of formula (I):



(I)

wherein

R_1 is CH_3 or H,

R_2 is $(R_{2a})_m W_n (R_{2b})_p Y_q Z$, wherein

R_{2a} and R_{2b} are independently selected from carbonates, carbamates, ureas, dithiocarbonates, dithiocarbamates, thiocarbonates, thioureas, trithiocarbonates, and thiocarbamates,

m and p are independently selected from 0 and 1,

W is selected from CH_2 and $(\text{CH}_2)_t \text{O}$,

Y is selected from CH_2 and $(\text{CH}_2)_s \text{O}$,

t and s are integers independently selected from 0 to 50 inclusive,

n and q are integers independently selected from 0 to 50 inclusive,

Z is O or NH and is attached to the carbonyl moiety,

R_3 and R_4 are independently selected from H, a substituted or unsubstituted alkyl group, and a substituted or unsubstituted aromatic group, and

X_1 and X_2 are independently selected from O and S;

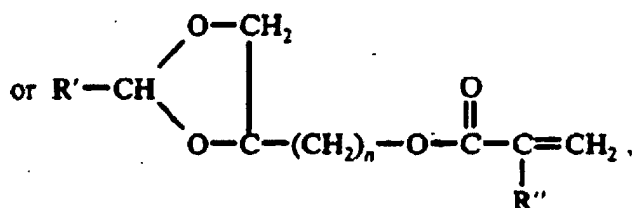
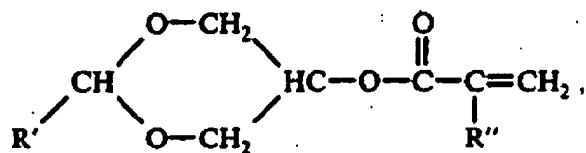
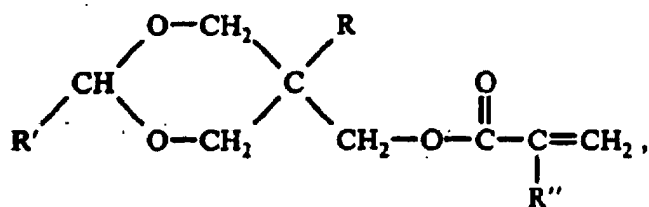
wherein

(a) if Z is O, Y is CH_2 , q is an integer from 1 to 4 inclusive, and m , n , and p are 0, then at least one of X_1 and X_2 is S;

(b) if Z is O, W is CH_2 , n is an integer from 1 to 4 inclusive, and m , p , and q are 0, then at least one of X_1 and X_2 is S; and,

(c) if Z is O and m , n , p , and q are 0, then at least one of X_1 and X_2 is S.

Zey discloses the following compounds:



wherein R is $-\text{CH}_3$ or $-\text{CH}_2-\text{CH}_3$, R' is hydrogen, C_1-C_3 alkyl or C_1-C_3 halogenated alkyl, R'' is hydrogen or methyl and n is 1-4. This composition is prepared by

For the purposes of the comparison, Zey's root compounds will be referred to as compound I, II, and III with compound I being the top compound, compound II being the middle compound and compound III being the bottom compound.

Zey's Compound I

Applicants included the provisos (a) and (b) to specifically exclude claiming Zey's Compound I. Zey's Compound I contains an OCH_2 structure between a carbonyl moiety and a cyclic structure with the O attached to the carbonyl moiety. Provisos (a) and (b) require that if the Markush group for Applicants' R_2 is OCH_2 (with the O attached to the carbonyl moiety), then at least one of X_1 or X_2 must be a sulfur (S) atom.

Compound I, on the other, discloses no sulfur in the positions corresponding to X_1 or X_2 in Applicants' structure, only oxygen (O). Therefore, Zey's Compound I does not anticipate Applicants' claim 1 under 35 U.S.C. 102(b).

Zey's Compound II

Applicants included the proviso (c) to specifically exclude claiming Zey's Compound II. Zey's Compound II contains only an O structure between a carbonyl moiety and a cyclic structure. Proviso (c) requires that if the Markush group for Applicants' R₂ is O, then at least one of X₁ or X₂ must be a sulfur (S) atom.

Compound II, on the other, discloses no sulfur in the positions corresponding to X₁ or X₂ in Applicants' structure, only oxygen (O). Therefore, Zey's Compound II does not anticipate Applicants' claim 1 under 35 U.S.C. 102(b).

Zey's Compound III

Zey's Compound III contains an O(CH₂)_n structure between a carbonyl moiety and a 5-membered ring structure. Applicants' claim requires its ring structure to be a six-membered ring. Therefore, Zey's Compound III does not anticipate Applicants' claim 1 under 35 U.S.C. 102(b).

Conclusion

As described above, Zey does not anticipate Applicants' claim 1. Therefore, Applicants submit that claim 1 is allowable over Zey and that claim 2 and 3 which depend from claim 1 are also allowable. However, Applicants also submit that claims 2 and 3 may be further distinguishable from Zey independently from claim 1, but such analysis is not necessary in light of the allowability of claim 1 over Zey.

Claims 1-3 remaining pending in this application. In light of the above remarks, it is believed that all claims in the application are now in condition for allowance, and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is invited to telephone the undersigned to attempt to resolve those issues.

This constitutes a request for any needed extension of time under 37 C.F.R. § 1.136(a) and an authorization to charge all fees therefore to Deposit Account No. 502775, if not otherwise specifically requested.

The Commissioner is hereby authorized to charge any required fees not included, or any deficiency of fees submitted herewith, or credit any overpayment to Deposit Account No.

502775.

Respectfully submitted,

2/16/06
Date

/ s/
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